



09/28/2006

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Iver L. Johnson
HW Specialist
Department of Environmental Quality
Permitting and Compliance Division
P.O. Box 200901
Helena, Montana 59620-0901

September 28, 2006

SENT BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Re: Warning Letter - August 31, 2006 Compliance Evaluation Inspection
Asarco East Helena Plant

Dear Mr. Johnson:

Asarco is in receipt of your September 22, 2006 warning letter. Your letter requires Asarco to submit written and photographic documentation that the waste material in the Bailey building has been properly stored within the containment (lego block) wall.

Graham McMorine (Envirocon Inc. Project Manager) has prepared the attached response to your request. With respect to the field investigative report that was attached to the Warning Letter, please be advised of the following.

Mist Precipitator and Hot Cottrell buildings:

As stated in the field investigation report addendum, the galbestos paneling removed from these buildings is being stored on the concrete pad adjacent to the Bailey building at an angle so as not to allow standing water to collect on the surface of the panels. Let me know if you wish to conduct an on-site inspection of the galbestos storage area.

Sinter Plant

The field investigation report states "...Asarco wants to fill these openings with fumed slag to prevent storm water seepage in the near future." Asarco recently prepared a 2006 Interim Measures Work Plan Addendum, which describes the interim capping project for the Phase 1, 2 and 3 areas. The addendum work plan sets forth Asarco's strategy to address final cleaning actions, identifies locations for collection of surface samples, outlines backfill area using fumed slag, presents interim capping techniques, procedures, and materials, and outlines the short-term maintenance for the interim cap. The contents of the addendum work plan thoroughly describes the interim cap that will be placed over exposed soils in the Phase 1, 2, and 3 areas (prior to the placement of backfill fumed slag), which will prevent storm water infiltration. The addendum work plan was submitted to Denise Kirkpatrick.

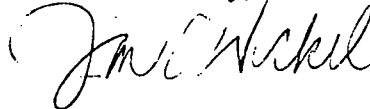
The field investigation report incorrectly states the date, transporter, and waste codes for Manifest R0153. The *August 18, 2006* (Manifest R0153) contaminated debris waste shipment was transported by *Clean Harbors Environmental Services* under waste codes *D004, D005, D006, D007, D008, D010, and D011*.

Photo #: ASARCO 06243-016, ASARCO 06243-018, and ASARCO 06243-019

The loose material identified in the three photograph of the sinter plant has been removed.

Thank you for your prompt delivery of the field inspection report. If you have any questions, feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Nickel". The signature is fluid and cursive, with the first name "Jon" and last name "Nickel" clearly distinguishable.

Jon Nickel

Enclosure: Graham McMorine Report

Cc: Linda Jacobson



Memo

September 25, 2006

Subject: Debris piles in Bailey Tent.

To whom it may concern.

On 31 August 2006, during a site visit by Montana Department of Environmental Quality, it was noted that debris which was being loaded into the Bailey tented building exceeded the height of the Lego blocks. After being informed of the non-compliance issue Mr. Graham McMorine the Project Manager for Envirocon Inc, immediately arranged for the debris to be reduced in height so that it did not exceed the level of the top of the Lego blocks. It will be seen from the attached photographs that indeed the level of debris does not exceed the height restriction.

Since the visit by MDEQ, Envirocon is no longer placing debris into the Bailey tent as it has reached its load capacity; therefore the possibility of the height restriction being exceeded in the future is a moot point.

A handwritten signature in cursive script that reads "Graham McMorine".

Graham McMorine.
Project Manager
Envirocon Inc.

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